

STATEMENT OF THE CASE

Marlen Bontrager appeals his conviction for Resisting Law Enforcement, as a Class A misdemeanor, following a jury trial. He presents a single issue for our review, namely, whether the State presented sufficient evidence to support his conviction.

We affirm.

FACTS AND PROCEDURAL HISTORY

On August 21, 2006, Bontrager was driving an off-road motorcycle (“dirt bike”) around Mishawaka. Transcript at 53. Steven Whetstone, a neighbor of Bontrager’s, saw him driving the dirt bike on city streets, on a sidewalk, and through Whetstone’s brother’s yard before driving into his shed and locking the shed door. Whetstone saw a young boy riding as a passenger on Bontrager’s dirt bike during that time.

Mishawaka Police Officers responded to complaints about the dirt bike and observed a man, later identified as Bontrager, driving a dirt bike at a high rate of speed. Bontrager did not respond to the officers’ commands to stop and eluded them. Officers subsequently saw Bontrager standing in his front yard. He initially denied having a dirt bike when the officers questioned him, but then he stated that he had a dirt bike and had let a young neighbor borrow the bike earlier that day. When officers asked Bontrager whether they could look in his shed, he stated that it was locked and that he did not have the key. The officers could see a dirt bike inside the shed that looked like the one they had pursued earlier. But Bontrager continued to deny that the dirt bike was inside the shed.

When the officers started to leave, Whetstone's brother called them over to talk to them. He told them that Bontrager was the one who had been driving the dirt bike that day. The officers then arrested Bontrager. The State charged Bontrager with resisting law enforcement, as a Class D felony. A jury found him guilty as charged, and the trial court entered judgment of conviction for resisting law enforcement, as a Class A misdemeanor. This appeal ensued.

DISCUSSION AND DECISION

Bontrager contends that the State presented insufficient evidence to support his conviction. When reviewing the claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of the witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting the judgment and the reasonable inferences therein to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. Id. If there is substantial evidence of probative value to support the conviction, it will not be set aside. Id.

Bontrager's sole contention on appeal is that the evidence identifying him as the driver of the dirt bike was insufficient to support his conviction. In particular, Bontrager points out that the police officers and Whetstone gave conflicting testimony regarding what Bontrager was wearing at the time of the offense. The police officers testified that Bontrager was wearing tan shorts and no shirt at the time. Whetstone testified that he could "not recall" what Bontrager was wearing, but he stated, "I would say he was wearing blue jeans and a T-shirt." Transcript at 52.

Regardless of the conflicting testimony regarding Bontrager's clothing, the evidence is sufficient to support his conviction. Officer Anthony Stachowiak testified that on August 21, 2006, he saw a man wearing tan shorts and no shirt driving a dirt bike at a high rate of speed. Officer Stachowiak testified that he tried to stop the driver, but was "unable to catch him." Transcript at 110. The officer subsequently saw the same man on the dirt bike again and initiated a traffic stop, but the driver did not respond. Officer Stachowiak eventually saw a man who looked like the man he had pursued in the front yard of a residence. After questioning that man, Bontrager, the officer saw a dirt bike inside a shed on the premises. Bontrager denied that he had ridden that dirt bike that day. Officer Stachowiak was "not sure if it was actually" the same man they had seen on the dirt bike, so they started to leave. Id. at 115. But before Officer Stachowiak could leave, one of Bontrager's neighbors stopped the officer and told him that Bontrager was the one who had been driving the dirt bike that day.

Bontrager's contentions on appeal amount to a request that we reweigh the evidence, which we will not do. Whetstone initially testified that he could not recall what Bontrager had been wearing that day and only speculated that he was wearing jeans and a T-shirt. Whetstone unequivocally identified Bontrager as the driver of the dirt bike that day, and he saw police vehicles "within minutes" of seeing Bontrager drive through Whetstone's brother's yard. Id. at 50. The State presented sufficient evidence to support Bontrager's conviction.

Affirmed.

MATHIAS, J., and BRADFORD, J., concur.